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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,038	12/30/2003	Edward John Giblin	C6656(C)	6775
201 7590 10/01/2007 UNILEVER INTELLECTUAL PROPERTY GROUP 700 SYLVAN AVENUE, BLDG C2 SOUTH ENGLEWOOD CLIFFS, NJ 07632-3100			EXAMINER DERAKSHANI, PHILIPPE	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 10/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/748,038	<b>Applicant(s)</b> GIBLIN ET AL.	
	<b>Examiner</b> PHILIPPE S. DERAESHANI	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims and 1-2, 5, 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulovich et al 6,523,724 in view of Kurita et al 6,277,478.

Paulovich et al show a venting closure comprising a neck 166, patch 58 having an off center aperture 410 and backing layer 420. Paulovich et al lack the patch adhered to the neck and a backing layer adhered to the patch. Kurita et al show a patch closure comprising a patch 10 adhered to a neck 22 and a backing layer 9 adhered to the patch. It would have been obvious to one of ordinary skill in the art to have substituted the Paulovich et al closure having the patch adhered to the neck and a backing layer adhered to the patch as taught by Kurita et al as an alternative equivalent means for applying a closure to a container neck.

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulovich et al 6,523,724 in view of Kurita et al 6,277,478 as applied to claims 1 and 9 above, and further in view of Ostrowsky 3,993,208.

The Paulovich et al/ Kurita et al apparatus lacks the vent cap having a raised portion. Ostrowsky shows a cap having a raised portion 66 to point to the pressure surface areas of the cap (column 3, lines 46-50). It would have been obvious to one of

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ordinary skill in the art to have modified the Paulovich et al Kurita et al I apparatus cap with a raised portion as taught by Ostrowsky to point to the pressure surface areas of the cap.

### ***Response to Arguments***

Applicant's arguments filed 7/19/07 have been fully considered but they are not persuasive. Applicants arguments with respect to claims 1-2, 5 and 8-13 are moot in view of the new grounds of rejection.

In response to Applicant's argument that Ostrowsky is used for different purpose than applicants invention, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ou-Yang is cited to show another example of a backing layer. Dimeo et al is cited to show another example of a cap having an arrow indicator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHILIPPE S. DERAESHANI whose telephone number is 571-272-4925. The examiner can normally be reached on 8 hour days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 9-25-07  
PHILIPPE S DERAKSHANI  
Primary Examiner  
Art Unit 3754

PD  
9/25/07